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April 6, 2016

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: *Application of AT&T Mobility Spectrum LLC and Data-Max Wireless, LLC
for Consent to Assign a Lower 700 MHz B Block License in Arizona (WT
Docket 16-59)*

Dear Ms. Dortch:

Data-Max Wireless, LLC, by its attorneys, hereby submits its response to the March 24, 2016 General Information Request in the above-referenced matter. Kindly direct any questions regarding this matter to the undersigned counsel.

Respectfully Submitted,

Lawrence J. Movshin

Lawrence J. Movshin
Wilkinson Barker Knauer, LLP

Attachment

cc (via email):

Scott Patrick
Kate Matraves
Jim Bird

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	WT Docket No. 16-59
Application of AT&T Mobility Spectrum LLC)	
and Data-Max Wireless, LLC for Consent to)	
Assign a Lower 700 MHz B Block License in)	
Arizona)	

**RESPONSE OF DATA-MAX WIRELESS, LLC TO
GENERAL INFORMATION REQUEST DATED MARCH 24, 2016**

1. ***Explain in detail the decision made by Data-Max to assign the Lower 700 MHz B Block spectrum that is the subject of this application to AT&T, including any attempts made to enter into a sale of this spectrum or alternative arrangements with parties other than AT&T.***

As the Commission is well aware, Data-Max was the winning bidder for the Lower 700 MHz B Block license for the Arizona 1 – Mohave (CMA318) in Auction No. 73, and received a Tribal Land Bidding Credit (“TLBC”) to serve the Hualapai Indian Tribe (the “Tribe”) living on that portion of the Hualapai Reservation situated in CMA318 (the “Tribal Area”). The bidding credit amounted to \$217,000. Unfortunately, Data-Max was unable to satisfy the requirement to construct and operate a system capable of serving seventy-five (75) percent of the population of the Tribe within three (3) years of the license grant, and through inadvertence, Data-Max also failed to seek an extension of that deadline or repay the bidding credits in a timely fashion, resulting in the automatic termination of its license.

In February, 2013, Data-Max sought Commission relief from the automatic termination of its license in the form of a waiver of the TLBC construction and repayment deadlines, as well as a two-year extension of the TLBC construction deadline (the “Waiver”). As Data-Max noted in several pleadings relating to the Waiver, it purchased the license in Auction No. 73 for the purpose of providing a fixed wireless alternative in the CMA, as it did not believe it had the capital or operational resources to effectively provide a mobile wireless service which could be competitive with the existing nationwide and regional providers in the market. Moreover, Data-Max believed that a fixed wireless service would be most attractive to the members of the Tribe given the lack of high speed data services available in the Tribal Area. However, Data-Max was stymied in meeting this business objective by the lack of suitable fixed wireless equipment that could provide reasonably attractive speeds and capacity during the several years immediately following the license grant. While the Waiver was pending, Data-Max continued to seek out appropriate equipment for its fixed wireless service offering, with some level of optimism that an acceptable manufacturer had been identified and might be able to provide the equipment necessary for Data-Max to begin commercial service to the Tribal Area.

The license was reinstated by the Mobility Division of the Wireless Telecommunications Bureau on May 14, 2014 after Data-Max repaid the bidding credit with interest and agreed to complete construction of a wireless system that served the Tribal Area. In granting relief, the Division noted Data-Max's diligence in taking meaningful steps towards construction of its network, as well as its continued efforts to work with tribal authorities to facilitate construction of Data-Max's network in the Tribal Area in order to provide commercial service to the Hualapai Tribe.

In the months following grant of the Waiver, Data-Max continued its search for suitable fixed wireless service equipment. Unfortunately, the number of vendors who could satisfy Data-Max's needs was very limited. Moreover, the aggregate financial commitment that would be required to provide a viable fixed wireless service throughout the CMA called into question the commercial feasibility of Data-Max's business model. At the same time, the opportunity to create a stand-alone mobile wireless service in the CMA that might be able to compete with now better-established carriers who also provide facilities-based services on a nationwide and regional basis had become equally unattractive. While Data-Max remained committed to providing wireless service to the Tribal Area, after several months seeking alternative approaches for serving the entire CMA market, Data-Max decided to seek the sale of the license to an existing carrier who would be better positioned to provide a mobile wireless service that would cover the entire CMA.

In August, 2014, Data-Max engaged the services of MVP Capital, LLC (f/k/a Media Venture Partners, LLC), one of the leading investment banks executing transactions for telecom companies. MVP was tasked with assisting the company in evaluating its options for capturing the value of its assets, while also assuring that the Tribal area would be provided a quality wireless telecommunications service offering. During August 2014, MVP marketed the opportunity to purchase the license to all four nationwide carriers (AT&T, Sprint, T-Mobile and Verizon), as well as nine other carriers and spectrum entrepreneurs, including all carriers with spectrum holdings in or near the CMA. Based on the level of interest and offers received, including the recipients' interest in assuring that the Tribal Area would be served, Data-Max chose to engage with AT&T to seek the sale of the license to that company.

The negotiation of the transaction extended over many, many months, in large measure relating to the parties' desire to assure that AT&T would be able to satisfy Data-Max's commitment to provide service to the Tribal Area, or if not, that Data-Max would be in a position to do so economically. After lengthy review of a number of factors, the parties agreed that Data-Max would retain the obligation to complete construction and operation of a fixed wireless network serving the Tribe and the Tribal Area. From both an economic and marketing perspective, given its strong relationship with the Tribe, Data-Max was best positioned to complete construction of that network expeditiously. The parties determined, on the other hand, that AT&T would be best positioned to complete construction and operation of a mobile wireless network using the spectrum covering that remaining portion of the CMA, and thus the transaction was structured in this manner.

Although Data-Max is not able to construct and operate an effective system that would serve the entire CMA, it has constructed, and intends to continue operating, a smaller and more

efficient broadband network providing service to, and focusing on the needs of, the Tribe living on the Hualapai Reservation. As such, Data-Max has been able to achieve its initial objective in securing the TLBC – assuring that this native population will be served – even after the instant transaction is consummated.